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WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAFAYETTE-OPELOUSAS DIVISION

ARISTA RECORDS, L.L.C.

SONY BMG MUSIC ENTERTAINMENT

VIRGIN RECORDS AMERICA, INC.

ATLANTIC RECORDING CORP.

ELEKTRA ENTERTAINMENT GROUP, INC.

CIVIL ACTION NO. 05-1319

JUDGE HAIK

MAGISTRATE JUDGE METHVIN

VS.

FREDERICK CAMPBELL

**RULING ON MOTION TO COMPEL DISCOVERY**

*(Rec. Doc. 12)*

Before the court is the motion to compel defendant, Frederick Campbell, to provide answers to interrogatories and document requests and for other relief that the court deems just and necessary filed by plaintiffs, Arista Records LLC, Elektra Entertainment Group, Inc., SONY BMG MUSIC ENTERTAINMENT, Virgin Records America, Inc., and Atlantic Recording Corporation, on December 30, 2005.<sup>1</sup> A review of the record reveals that no opposition has been filed and that the delays allowed for the filing of an opposition have expired.<sup>2</sup>

Movers seek an order requiring initial responses to plaintiffs' first set of interrogatories and first set of requests for production and inspection of items propounded on defendant on November 10, 2005. Movers also seek an order, requiring that defendant submit his responsive and produce documents without objection or resort to privilege. Absent extension or good cause,

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<sup>1</sup> Rec. Doc. 12.

<sup>2</sup> Local Rule 7.5W requires that written opposition to a motion be filed within fifteen (15) days after service of the motion.

failure to timely respond to interrogatories, production requests, or other discovery efforts generally constitutes a waiver of any objections thereto. *See* Rule 33(b)(4); In re United States, 864 F.2d 1153, 1155 (5th Cir. 1989). Defendant has neither moved for an extension time to respond to discovery nor did he file a response to plaintiffs' motion to compel in order to make a showing of good cause for his failure to provide discovery responses.<sup>3</sup>

In light of the foregoing,

**IT IS HEREBY ORDERED** that the instant motion to compel is **GRANTED**.

**IT IS FURTHER ORDERED** that complete discovery responses shall be provided to plaintiffs *within ten days of the date of this order*.

**IT IS FURTHER ORDERED** defendant is deemed to have waived any discovery objections to plaintiffs' first set of interrogatories and to plaintiffs' first set of requests for production and inspection of items.

**IT IS FURTHER ORDERED** that, pursuant to F.R.Civ.P. 37(a)(4), defendant Frederick Campbell shall pay the attorney's fees and costs incurred in connection with the filing and prosecution of the extant motion to compel. Mover's counsel shall file an affidavit of fees and costs into the record *on or before February 21, 2006* in order to assist the court in the assessment of a reasonable fees and costs award. The affidavit(s) shall contain: (1) the customary hourly rate of each attorney and paralegal involved; (2) a detailed description of each task completed, and a statement of the amount of time expended upon each task; and (3) an

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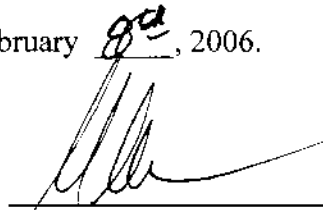
<sup>3</sup> It is further noted that Defendant failed to timely comply with the Rule 25(f) Report deadline. (Rec. Doc. 5). Defendant subsequently failed to comply with the court's order entered on October 4, 2005 to submit his Rule 26(f) inserts to counsel for plaintiff, (Rec. Doc. 6), and a show cause hearing was held on November 8, 2005 to address the issue. (Rec. Doc. 8). The Rule 26(f) report was ultimately filed on November 22, 2005. (Rec. Doc. 11).

itemized list of expenses incurred. *Failure to file the affidavit in the form required and/or within the deadline imposed will render the award null and void.*

**IT IS FURTHER ORDERED** that objections to the affidavit shall be filed *on or before February 28, 2006.*

*The Clerk of Court shall notice any affidavit filed for consideration on the undersigned's March 22, 2006 motion calendar as an "assessment of Rule 37(a)(4) fees and expenses."*

Signed at Lafayette, Louisiana on February 28<sup>th</sup>, 2006.

A handwritten signature in black ink, appearing to read 'Methvin', is written over a horizontal line.

Mildred E. Methvin  
United States Magistrate Judge  
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